

Commodity Credit Corporation, USDA

§ 1427.1305

§ 1427.1302 Definitions.

The definitions in this section shall apply to the cottonseed payment program in this subpart. The terms defined in § 1427.3, Subpart A, Non-recourse Cotton Loan and Loan Deficiency Payment shall also be applicable to this subpart.

Application period means a period, as announced by CCC, during which applications for payments under the Cottonseed Payment Program must be received to be considered for payment.

Cottonseed means the seed from any varieties of upland cotton and extra long staple (ELS) cotton produced and ginned in the United States.

Gin means a person (*i.e.*, an individual, partnership, association, corporation, cooperative marketing association, estate, trust, State or political subdivision or agency thereof, or other legal entity) that removes cotton seed from cotton lint in commercial quantities.

Hurricane-affected county means a county declared a natural disaster or included in the geographic area covered by a natural disaster declaration related to Hurricane Katrina, Hurricane Ophelia, Hurricane Rita, Hurricane Wilma, a related condition, or a county contiguous to such a county.

Lint means cotton lint as contained in bales of cotton ordinarily marketed as cotton and excludes any linters, raw motes, re-ginned motes, cleaned motes, and any other gin waste or byproduct not traditionally defined as cotton lint.

Ton means a unit of weight equal to 2,000 pounds avoirdupois (907.18 kilograms).

§ 1427.1303 Eligible cottonseed.

To be eligible for payments under this subpart, cottonseed must:

(a) Have been produced from cotton grown in a hurricane-affected county as defined in section 1427.1302 during the 2005-crop production period.

(b) Have been the result of ginning 2005-crop cotton by the applicant.

(c) Not have been destroyed or damaged in any amount at the gin by fire, flood, or other events such that its loss or damage was compensated by any other local, State, or Federal government or private or public insurance or disaster relief payments.

§ 1427.1304 Eligible applicants (first handlers).

(a) An eligible applicant shall be a first handler of cottonseed or a gin that has an eligible payment quantity as determined under § 1427.1307. This is the gin(s) that ginned 2005 crop cotton for the producer except if the 2005 gin is no longer in business to the extent the company has no means to apply for payment on behalf of producers and distribute funds, the current gin becomes the applicant. Only an eligible first handler shall be eligible to file an application for payment in this subpart.

(b) Applicants must comply with the terms and conditions set forth in this subpart issued by CCC, and sign and submit an accurate, legible, and complete Cottonseed Payment Program Application and Certification.

(c) Applicants signing the cottonseed payment application or receiving payment in this subpart must share and distribute any payment with the producer of the cotton that was the basis for the cottonseed payment to the extent that the effect of the loss of 2005 crop cottonseed was borne by the producer rather than the gin. To the extent that such funds shall be shared with and distributed to the producer by the gin pursuant to this subpart, those funds will be considered to have been received by the applicant on behalf of such producers.

§ 1427.1305 Payment application and deadline.

(a) Payments in this subpart shall be made available only to eligible first handlers of cottonseed based on information provided on a Cottonseed Payment Program Application and Certification.

(b) The application deadline shall be 45 calendar days after the rules in this subpart become effective. A further extension of application time may be announced by CCC. Payment applications must be received by the program application deadline announced by CCC. Applications received after such application deadline will not be accepted for payment.

(c) The Cottonseed Payment Program Application and Certifications may be obtained from the CCC as announced

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by press release. In order to participate in the cottonseed payment program in this subpart, first handlers of cottonseed must execute and submit to CCC according to announced instructions the Cottonseed Payment Program Application and Certification.

§ 1427.1306 Available funds.

The total available program funds for the 2005-crop cottonseed program provided for in this subpart shall be \$15 million.

§ 1427.1307 Applicant payment quantity.

(a) The applicant's payment quantity of cottonseed will be calculated by the applicant and submitted on the Cottonseed Payment Application and Certification for approval by CCC.

(1) An applicant must be an eligible gin to which a producer delivered 2005 cotton and the applicant's payment eligibility will be based on the determination of the total amount of 2003 crop lint deliveries by cotton producers in eligible counties.

(2) The 2003 crop lint delivery determination will be made by the applicant for each eligible county producer by producer, based upon producer certification, ginning records, or other relevant information as applicable. If the producer delivered 2003 crop cotton to a gin(s) different from the gin that received 2005 crop deliveries, the 2005 gin shall contact the other gins for production information or obtain other proof of the eligible quantity from the cotton producer so as to make or verify the calculation called for in paragraph (a) of this section.

(3) If the producer delivered cotton to more than one 2005 gin, each gin shall be an applicant. If the producer did not deliver cotton to the same gins in 2003, the applicants shall divide the total 2003 production, obtained according to paragraph (a)(2) of this section, equally between each applicant gin.

(4) If the producer did not grow any 2005 crop cotton in the eligible county, the applicant shall not apply for payment on behalf of the producer.

(5) If the producer grew 2005 crop cotton but did not produce 2003 crop cotton, the producer shall be considered a new producer. In this case, the appli-

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cant shall compute an assumed 2003 lint delivery amount by multiplying the 2003 USDA National Agricultural Statistics Service (NASS) county average yield for the applicable county times the producer's 2005 cotton acreage in the eligible county. Proof of cotton acreage may be obtained by the applicant from producer certification, FSA county office acreage reports, or crop insurance records. If the NASS county average yield is not computed for the applicable county, the applicant shall use the NASS county average yield for the nearest cotton producing county with the highest NASS county average yield.

(b) The applicant's lint eligibility will be calculated individually with respect to all eligible cotton producers and those individual eligibilities for the gin will then be added together to determine the total lint eligibility of the gin.

§ 1427.1308 Total payment quantity.

(a) The total quantity of 2005-crop cottonseed eligible in this subpart shall be based on the total payment quantity of cottonseed as determined under this subpart for which timely applications are filed. Eligible cottonseed for which no application is received according to the announced application instructions shall not be included in the total payment quantity of cottonseed.

(b) The total payment quantity of cottonseed (ton-basis) shall be calculated by CCC by multiplying the weight of cotton lint (ton-basis) for which payment is requested by all applicants, as approved by CCC, by the Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, excluding the highest and lowest years' production, as determined by CCC for the 5 years preceding the 2005 crop.

§ 1427.1309 Payment rate.

The payment rate (dollars per ton) for the purpose of calculating payments made available in accordance in this subpart shall be determined by CCC by dividing the total available program funds, less an amount reserved for approved corrections, by the total eligible payment quantity of cottonseed. However, in no event may the